MONTANA LEGISLATIVE HISTORY

Chapter 453 1985

Bill H 670 S _____ Original bill & history ✓ C

H. Committee on Nat'l Resources			S. Committee on Nat'l Resources		
Hearing Date(s)	Feb 20	✓ C	Hearing Date(s)	Mar 20	✓ C
		C		Mar 28	✓ C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

3/14 HEARING
DIED IN COMMITTEE

HB 670 INTRODUCED BY IVERSON
TO REQUIRE RECLAMATION OF TAILING, WASTEROCK
ORE PROCESSING
BY REQUEST OF DEPARTMENT OF STATE LANDS

2/05 INTRODUCED
2/05 REFERRED TO NATURAL RESOURCES
2/06 FISCAL NOTE REQUESTED
2/12 FISCAL NOTE RECEIVED
2/20 HEARING
2/22 COMMITTEE REPORT-BILL DO PASS
2/22 STATEMENT OF INTENT ATTACHED
2/23 2ND READING PASS
2/26 3RD READING PASS

TRANSMITTED TO SENATE
3/04 REFERRED TO NATURAL RESOURCES
3/20 HEARING
3/29 COMMITTEE REPORT-BILL CONCURRED
3/30 2ND READING CONCURRED
4/01 3RD READING CONCURRED

RETURNED TO HOUSE
4/08 SIGNED BY SPEAKER
4/08 SIGNED BY PRESIDENT

4/08 TRANSMITTED TO GOVERNOR
4/12 SIGNED BY GOVERNOR
CHAPTER NUMBER 453 EFFECTIVE DATE: 10/01/

HB 671 INTRODUCED BY SCHYE, NEUMAN, HOLLIDAY, ET AL
ESTABLISHES AGRICULTURAL ADVOCACY PROGRAM

2/05 INTRODUCED
2/05 REFERRED TO APPROPRIATIONS
3/11 HEARING
DIED IN COMMITTEE

HB 672 INTRODUCED BY HARP, BRANDEWIE, MENAHAN
APPROPRIATING FUNDS TO SUPPORT A TOLL FREE CONSUMER
COMPLAINT HOTLINE AT PSC

2/05 INTRODUCED
2/05 REFERRED TO APPROPRIATIONS
DIED IN COMMITTEE

HB 673 INTRODUCED BY KADAS
ADVANCING TIME FOR TESTING LOCAL PETITION VALIDITY
IN COURT

2/05 INTRODUCED
2/05 REFERRED TO LOCAL GOVERNMENT
2/13 COMMITTEE REPORT-BILL PASS AS AMENDED
2/16 2ND READING PASS AS AMENDED 98
2/19 3RD READING PASS 98

TRANSMITTED TO SENATE

HOUSE BILL NO. 670

INTRODUCED BY IVERSON

BY REQUEST OF THE DEPARTMENT OF STATE LANDS

IN THE HOUSE

February 5, 1985	Introduced and referred to Committee on Natural Resources.
February 6, 1985	Fiscal Note requested.
February 12, 1985	Fiscal Note returned.
February 22, 1985	Committee recommend bill do pass. Report adopted.
	Statement of Intent attached.
	Bill printed and placed on members' desks.
February 23, 1985	Second reading, do pass.
	Considered correctly engrossed.
February 26, 1985	Third reading, passed.
	Transmitted to Senate.

IN THE SENATE

March 4, 1985	Introduced and referred to Committee on Natural Resources.
March 29, 1985	Committee recommend bill be concurred in. Report adopted.
March 30, 1985	Second reading, concurred in.
April 1, 1985	Third reading, concurred in. Ayes, 48; Noes, 0.
	Returned to House.

IN THE HOUSE

April 2, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 670

INTRODUCED BY [signature]

BY REQUEST OF THE DEPARTMENT OF STATE LANDS

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE RECLAMATION OF LAND DISTURBED BY HARD-ROCK TAILING, WASTE ROCK, OR ORE PROCESSING OPERATIONS; AMENDING SECTIONS 82-4-303, 82-4-304, 82-4-335 THROUGH 82-4-337, 82-4-340, 82-4-351, AND 90-6-302, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 82-4-303, MCA, is amended to read:

"82-4-303. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Abandonment of surface or underground mining" may be presumed when it is shown that continued operation will not resume.

(2) "Board" means the board of land commissioners or such state employee or state agency as may succeed to its powers and duties under this part.

(3) "Department" means the department of state lands.

(4) "Disturbed land" means that area of land or surface water disturbed, beginning at the date of the issuance of the permit, and it comprises that area from which the overburden, tailings, waste materials, or minerals have been removed and tailings ponds, waste dumps, roads, conveyor systems, leach dumps, and all similar excavations or covering resulting from the operation and which have not been previously reclaimed under the reclamation plan.

(5) "Exploration" means all activities conducted on or beneath the surface of lands resulting in material disturbance of the surface for the purpose of determining the presence, location, extent, depth, grade, and economic viability of mineralization in those lands, if any, other than mining for production and economic exploitation, as well as all roads made for the purpose of facilitating exploration, except as noted in 82-4-305 and 82-4-310.

(6) "Mineral" means any ore, rock, or substance, other than oil, gas, bentonite, clay, coal, sand, gravel, phosphate rock, or uranium, taken from below the surface or from the surface of the earth for the purpose of milling, concentration, refinement, smelting, manufacturing, or other subsequent use or processing or for stockpiling for future use, refinement, or smelting.

(7) "Mining" commences at such time as the operator first mines ores or minerals in commercial quantities for sale, beneficiation, refining, or other processing or disposition or first takes bulk samples for metallurgical testing in excess of aggregate of 10,000 short tons.

LC 1727/01

INTRODUCED BILL
HB 670

(8) "Ore processing" means milling, heap leaching, flotation, vat leaching, or other standard hard-rock mineral concentration processes.

~~(8)~~(9) "Person" means any person, corporation, firm, association, partnership, or other legal entity engaged in exploration for ~~or development~~ or mining of minerals on or below the surface of the earth, reprocessing of tailings or waste materials, or operation of a hard-rock mill.

~~(9)~~(10) "Reclamation plan" means the operator's written proposal, as required and approved by the board, for reclamation of the land that will be disturbed, which proposal shall include, to the extent practical at the time of application for an operating permit:

(a) a statement of the proposed subsequent use of the land after reclamation;

(b) plans for surface gradient restoration to a surface suitable for the proposed subsequent use of the land after reclamation is completed and the proposed method of accomplishment;

(c) the manner and type of revegetation or other surface treatment of disturbed areas;

(d) procedures proposed to avoid foreseeable situations of public nuisance, endangerment of public safety, damage to human life or property, or unnecessary damage to flora and fauna in or adjacent to the area;

(e) the method of disposal of mining debris;

(f) the method of diverting surface waters around the disturbed areas where necessary to prevent pollution of those waters or unnecessary erosion;

(g) the method of reclamation of stream channels and stream banks to control erosion, siltation, and pollution;

(h) such maps and other supporting documents as may be reasonably required by the department; and

(i) a time schedule for reclamation that meets the requirements of 82-4-336.

~~(10)~~(11) (a) "Small miner" means a person, firm, or corporation that engages in the business of mining, or reprocessing of tailings or waste materials that does not remove from the earth during any calendar year material in excess of 36,500 tons in the aggregate, that holds no operating permit under 82-4-335, and that conducts:

(i) operations resulting in not more than 5 acres of the earth's surface being disturbed and unreclaimed; or

(ii) two operations which disturb and leave unreclaimed less than 5 acres per operation if the respective mining properties are:

(A) the only operations engaged in by the person, firm, or corporation;

(B) at least 1 mile apart at their closest point; and

(C) not operated simultaneously except during seasonal

transitional periods not to exceed 30 days.

(b) For the purpose of this definition only, the department shall, in computing the area covered by the operation, exclude access or haulage roads that are required by a local, state, or federal agency having jurisdiction over that road to be constructed to certain specifications if that public agency notifies the department in writing that it desires to have the road remain in use and will maintain it after mining or exploration ceases.

~~(11)~~(12) "Surface mining" means all or any part of the process involved in mining of minerals by removing the overburden and mining directly from the mineral deposits thereby exposed, including but not limited to open-pit mining of minerals naturally exposed at the surface of the earth, mining by the auger method, and all similar methods by which earth or minerals exposed at the surface are removed in the course of mining. Surface mining does not include the extraction of oil, gas, bentonite, clay, coal, sand, gravel, phosphate rock, or uranium or excavation or grading conducted for on-site farming, on-site road construction, or other on-site building construction.

~~(12)~~(13) "Underground mining" means all methods of mining other than surface mining.

~~(13)~~(14) "Unit of surface-mined area" means that area of land and surface water included within an operating

permit actually disturbed by surface mining during each 12-month period of time, beginning at the date of the issuance of the permit, and it comprises and includes the area from which overburden or minerals have been removed, the area covered by mining debris, and all additional areas used in surface mining or underground mining operations which by virtue of such use are thereafter susceptible to erosion in excess of the surrounding undisturbed portions of land.

~~(14)~~(15) "Vegetative cover" means the type of vegetation, grass, shrubs, trees, or any other form of natural cover considered suitable at time of reclamation."

Section 2. Section 82-4-304, MCA, is amended to read:

"82-4-304. Exemption -- works performed prior to promulgation of rules. No provision of this part shall be applicable to any exploration or mining work performed prior to the date of promulgation of the board's rules pursuant to 82-4-321~~,~~ relating to exploration and mining. No provision of this part is applicable to the reprocessing of tailings or waste rock that occurred prior to the date of promulgation of the board's rules regarding those activities. If, after the date of promulgation of rules applicable to mills not located at a mine site, work is performed at such a mill that was constructed and operated before promulgation of those rules, this part applies only

to the areas initially disturbed after promulgation of those rules."

Section 3. Section 82-4-335, MCA, is amended to read:

"82-4-335. Operating permit. (1) No person shall engage in mining, ore processing, or reprocessing of tailings or waste material or construct or operate a hard-rock mill or disturb land in anticipation of ~~mining~~ those activities in the state without first obtaining an operating permit from the board to do so. A separate operating permit shall be required for each ~~mine~~ complex. Prior to receiving an operating permit from the board, any person must pay the basic permit fee of $25 and must submit an application on a form provided by the board, which shall contain the following information and any other pertinent data required by the rules:

(a) name and address of the operator and, if a corporation or other business entity, the name and address of its principal officers, partners, and the like and its resident agent for service of process, if required by law;

(b) minerals expected to be mined;

(c) a proposed reclamation plan;

(d) expected starting date of ~~mining~~ operations;

(e) a map showing the specific area to be mined and the boundaries of the land which will be disturbed, topographic detail, the location and names of all streams,

roads, railroads, and utility lines on or immediately adjacent to the area, location of proposed access roads to be built, and the names and addresses of the surface and mineral owners of all lands within the mining area, to the extent known to applicant;

(f) types of access roads to be built and manner of reclamation of road sites on abandonment; and

(g) a plan ~~of-mining~~ which will provide, within limits of normal operating procedures of the industry, for completion of ~~mining-and-associated--land--disturbances~~ the operation.

(2) Except as provided in subsection (3), the permit provided for in subsection (1) for a large-scale mineral development as defined in 90-6-302 shall be conditioned to provide that activities under the permit may not commence until the hard-rock mining impact board approves the impact plan under 90-6-307 and until the permittee has provided a written guarantee to the department and to the hard-rock mining impact board of compliance within the time schedule with the commitment made in the impact plan approved by the hard-rock mining impact board, as provided in 90-6-307. If the permittee does not comply with that commitment within the time scheduled, the board, upon receipt of written notice from the hard-rock mining impact board, shall suspend the permit until it receives written notice from the

hard-rock mining impact board that the permittee is in compliance.

(3) Compliance with 90-6-307 is not required for exploration and bulk sampling for metallurgical testing when the aggregate samples are less than 10,000 tons."

Section 4. Section 82-4-336, MCA, is amended to read:

"82-4-336. Reclamation plan and specific reclamation requirements. (1) The reclamation plan shall provide that reclamation activities, particularly those relating to control of erosion, to the extent feasible, shall be conducted simultaneously with ~~mining~~ the operation and in any case shall be initiated promptly after completion or abandonment of ~~mining~~ the operation on those portions of the ~~mine~~ complex that will not be subject to further disturbance ~~by--the--mining-operation~~. In the absence of an order by the board providing a longer period, the plan shall provide that reclamation activities shall be completed not more than 2 years after completion or abandonment of ~~mining~~ the operation on that portion of ~~mine~~ the complex.

(2) In the absence of emergency or suddenly threatened or existing catastrophe, an operator may not depart from an approved plan without previously obtaining from the department written approval of his proposed change.

(3) Provision shall be made to avoid accumulation of stagnant water in the mined area which may serve as a host

or breeding ground for mosquitoes or other disease-bearing or noxious insect life.

(4) All final grading shall be made with nonnoxious, nonflammable, noncombustible solids unless approval has been granted by the board for a supervised sanitary fill.

(5) Where mining has left an open pit exceeding 2 acres of surface area and the composition of the floor or walls of the pit are likely to cause formation of acid, toxic, or otherwise pollutive solutions (hereinafter "objectionable effluents") on exposure to moisture, the reclamation plan shall include provisions which adequately provide for:

(a) insulation of all faces from moisture or water contact by covering to a depth of 2 feet or more with material or fill not susceptible itself to generation of objectionable effluents;

(b) processing of any objectionable effluents in the pit before their being allowed to flow or be pumped out of it to reduce toxic or other objectionable ratios to a level considered safe to humans and the environment by the board;

(c) drainage of any objectionable effluents to settling or treatment basins when the objectionable effluents must be reduced to levels considered safe by the board before release from the settling basin; or

(d) absorption or evaporation of objectionable

effluents in the open pit itself; and

(e) prevention of entrance into the open pit by persons or livestock lawfully upon adjacent lands by fencing, warning signs, and such other devices as may reasonably be required by the board.

(6) Provisions for vegetative cover shall be required in the reclamation plan if appropriate to the future use of the land as specified in the reclamation plan.

(7) The reclamation plan shall provide for the reclamation of all disturbed land. Proposed reclamation need not reclaim the areas to a better condition or different use than that which existed prior to development or mining.

(8) A reclamation plan shall be approved by the board if it adequately provides for the accomplishment of the activities specified in this section."

Section 5. Section 82-4-337, MCA, is amended to read:

"82-4-337. Inspection -- issuance of operating permit -- modification. (1) (a) The board shall cause all applications for operating permits to be reviewed for completeness within 30 days of receipt. The board shall notify the applicant concerning completeness as soon as possible. An application is considered complete unless the applicant is notified of any deficiencies within 30 days of receipt.

(b) Unless the review period is extended as provided

in this section, the board shall review the adequacy of the proposed reclamation plan and plan of ~~mining~~ operation within 30 days of the determination that the application is complete or within 60 days of receipt of the application if the board does not notify the applicant of any deficiencies in the application. If the applicant is not notified of deficiencies or inadequacies in the proposed reclamation plan and plan of ~~mining~~ operation within such time period, the operating permit shall be issued upon receipt of the bond as required in 82-4-338. The department shall promptly notify the applicant of the form and amount of bond which will be required. No permit may be issued until sufficient bond has been submitted pursuant to 82-4-338.

(c) (i) Prior to issuance of a permit, the department shall inspect the site unless the department has failed to act on the application within the time prescribed in subsection (1)(b). If the site is not accessible due to extended adverse weather conditions, the department may extend the time period prescribed in subsection (1)(b) by not more than 180 days to allow inspection of the site and reasonable review. The department must serve written notice of extension upon the applicant in person or by certified mail, and any such extension is subject to appeal to the board in accordance with the Montana Administrative Procedure Act.

(ii) If the department determines that additional time is needed to review the application and reclamation plan for a major operation, the department and the applicant shall negotiate to extend the period prescribed in subsection (1)(b) by not more than 365 days in order to permit reasonable review.

(iii) Failure of the board to act upon a complete application within the extension period constitutes approval of the application, and the permit shall be issued promptly upon receipt of the bond as required in 82-4-338.

(2) The operating permit shall be granted for the period required to ~~mine--the--land--covered--by--the-plan~~ complete the operation and shall be valid until the ~~surface or--underground-mining~~ operation authorized by the permit is completed or abandoned unless the permit is suspended or revoked by the board as provided in this part.

(3) The operating permit shall provide that the reclamation plan may be modified by the board, upon proper application of the permittee or department, after timely notice and opportunity for hearing, at any time during the term of the permit and for any of the following reasons:

(a) to modify the requirements so they will not conflict with existing laws;

(b) when the previously adopted reclamation plan is impossible or impracticable to implement and maintain;

(c) when significant environmental problem situations are revealed by field inspection."

Section 6. Section 82-4-340, MCA, is amended to read:

"82-4-340. Successor operator. When one operator succeeds to the interest of another in any uncompleted ~~mining~~ operation by sale, assignment, lease, or otherwise, the board may release the first operator from the duties imposed upon him by this part as to such operation, provided that both operators have complied with the requirements of this part and the successor operator assumes the duty of the former operator to complete the reclamation of the land, in which case the board shall transfer the permit to the successor operator upon approval of the successor operator's bond as required under this part."

Section 7. Section 82-4-351, MCA, is amended to read:

"82-4-351. Reasons for denial of permit. (1) A permit may be denied for any of the following reasons:

(a) the plan of ~~development,--mining,~~ operation or reclamation conflicts with Title 75, chapter 2, as amended, Title 75, chapter 5, as amended, Title 75, chapter 6, as amended, or rules adopted pursuant to these laws;

(b) the reclamation plan does not provide an acceptable method for accomplishment of reclamation as required by this part.

(2) A denial of a permit shall be in writing and state

the reasons therefor."

Section 8. Section 90-6-302, MCA, is amended to read:

"90-6-302. Definitions. In this part the following definitions apply:

(1) "Board" means the hard-rock mining impact board established in 2-15-1822.

(2) "Bonds" include bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates, and all instruments or obligations evidencing or representing indebtedness or evidencing or representing the borrowing of money or evidencing or representing a charge, lien, or encumbrance on specific revenues, special assessments, income, or property of a political subdivision, including all instruments or obligations payable from a special fund.

(3) "Local government unit" means a political subdivision of this state, including a county, city, town, school district, or other special district that provides any of the services referred to in subsection (1)(c) of 90-6-307.

(4) "Large-scale mineral development" means the construction or operation of a hard-rock mine and the associated milling facility that will:

(a) employ at any given time at least 100 people; or

(b) cause, or be expected to cause, an increase in

estimated population of at least 15% in a local government unit when measured against the average population of the local government unit in the 3-year period immediately preceding the commencement of the construction of the mining facility. A mining operation that would qualify as a large-scale mineral development under this subsection is not a large-scale mineral development if the mine owner and operator are small miners as defined in 82-4-303~~(10)~~."

NEW SECTION. Section 9. Extension of authority. Any existing authority of the board of land commissioners or department of state lands to make rules on the subject of the provisions of this act is extended to the provisions of this act.

-End-

STATE OF MONTANA

F I S C A L N O T E

REQUEST NO. FNN 343-85

Form BD-15

In compliance with a written request received February 6, 19 85 , there is hereby submitted a Fiscal Note for House Bill 670 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:
House Bill 670 requires the reclamation of land disturbed by hard rock tailing, waste rock, or ore processing operations.

ASSUMPTIONS:
1. The additional workload of filing permits, inspections and review of plans will require .50 FTE.
2. No additional expenditures are required by the Hardrock Mining Board.

FISCAL IMPACT:

Expenditures:	FY 86		FY 87		Total Biennium	
	Current Law	Proposed Law	Current Law	Proposed Law	Current Law	Proposed Law
Personal Services	-0-	$12,526	-0-	$12,526	-0-	$25,052
Operations	-0-	1,000	-0-	1,000	-0-	2,000
INCREASE	-0-	$13,526	-0-	$13,526	-0-	$27,052
General Fund Cost:		$13,526		$13,526		$27,052

AFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:
N/A

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:
N/A

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:
N/A

David L Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Feb 12, 1985

FN7:M/2

George Ochenski supported HB 638 for the Environmental Information Center.

Jeanne-Marie Souvigney spoke in favor of HB 638 for the Northern Plains Resource Council.

There were no further proponents, and no opponents. There were no questions from committee.

HOUSE BILL 670: Rep. Dennis Iverson, sponsor of HB 670, introduced the bill, explaining that it would amend the hard-rock mining act to include tailings in the reclamation process.

Dennis Hemmer, of the department of state lands, rose in support ob HB 670, saying it would resolve issues in the hard-rock act that need clarification. A copy of his testimony is attached as Exhibit 18.

Gary Langley endorsed HB 670 on behalf of the Montana Mining Association.

Jeanne-Marie Souvigney supported the bill on behalf of the Norhtern Plains Resource Council.

George Ochenski spoke in support of HB 670 for the Environmental Information Center.

There were no opponents, and no questions from committee.

EXECUTIVE ACTION:

HOUSE BILL 637: Upon motion by Rep. Raney, HB 637 was passed unanimously.

HOUSE BILL 638: Upon motion by Rep. Raney, HB 638 was passed unanimously.

HOUSE BILL 670: Upon motion by Rep. Raney, HB 670 was passed unanimously.

HOUSE BILL 846: Upon motion by Rep. Smith, HB 846 was passed unanimously.

HOUSE BILL 786: Having noted that HB 786 does not increase the amount of deposit required for agricultural uses, Rep. Ream moved to ammend the title of the bill to delete a statement to that effect. On motion by Rep. Raney, the committee unanimously passed HB 786 as amended.

HOUSE BILL 766: Rep. Ream moved DO PASS on HB 766, but then withdrew that motion pending preparation of a statement of intent.

DAILY ROLL CALL

HOUSE NATURAL RESOURCES COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date February 20, 1985

NAME	PRESENT	ABSENT	EXCUSED
IVERSON, Dennis (Chairman)	X		
KADAS, Mike (Vice-Chairman)	X		
ADDY, Kelly	X		
ASAY, Tom	X		
COBB, John	X		
DRISCOLL, Jerry	X		
GARCIA, Rodney	X		
GRADY, Edward	X		
HARP, John	X		
JONES, Tom	X		
KRUEGER, Kurt	X		
MILES, Joan	X		
MOORE, Janet	X		
O'HARA, Jesse	X		
PETERSON, Mary Lou	X		
RANEY, Bob	X		
REAM, Bob	X		
SMITH, Clyde	X		

STANDING COMMITTEE REPORT

February 20 19 85

MR. SPEAKER:

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE Bill No. 670

FIRST reading copy (WHITE color)

AN ACT TO REQUIRE RECLAMATION OF LAND DISTURBED BY HARD-ROCK TAILING, WASTE ROCK, OR ORE PROCESSING OPERATIONS

Respectfully report as follows: That HOUSE Bill No. 670

DO PASS

STATEMENT OF INTENT ATTACHED

DENNIS IVERSON,
Chairman.

STATE PUB. CO.
Helena, Mont.

February 20, 1985
19

"Statement of Intent House Bill 670"

The purpose of the extension of the rulemaking authority of the department of state lands and board of land commissioners is to allow the existing rules to be amended to include ore processing and reprocessing and extraction of old tailings and waste rock. In addition, the board and department may provide special rules eliminating application and performance standards irrelevant to reprocessing operations or milling operations.

Representative Dennis Iverson Chairman.

STATE PUB. CO.
Helena, Mont.

VISITOR'S REGISTER

HOUSE NATURAL RESOURCES COMMITTEE

BILL 670 DATE 2/20

SPONSOR IVERSON

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Dennis Hemmer	Helena	DSL	✓	
Gary Amestoy	Helena	DSL	✓	
Jeff Collins	Troy	ASARCO	✓	
Mary A Langley	Helena	MT. MINING ASSN.	✓	
Joanne Sowerwine	Helena	NPRC	✓	
GEO. OCHENSKI	HELENA	EIC	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES OF THE MEETING
SENATE NATURAL RESOURCES COMMITTEE
MONTANA STATE SENATE
March 20, 1985

The twenty-third meeting of the Senate Natural Resources Committee was called to order by Chairman Dorothy Eck at 12:30 p.m., March 20, 1985, Room 405, State Capitol Building.

ROLL CALL: All members of the Senate Natural Resources Committee were present.

CONSIDERATION OF HB637: Representative Iverson, sponsor of HB637, stated HB637 is one of a series of three bills. Under the current statutes, if an operator fails to file an annual report, the Department of State Lands will initiate a civil action. However, this procedure is not effective if the operator has left the area and cannot be located. Representative Iverson feels this problem can be alleviated if the Department is allowed to first notify the operator by certified mail of his failure to file and annual report. If, after notice the report is not filed, the permit will be revoked.

PROPONENTS: Mr. Dennis Hemmer, representing the Department of State Lands, submitted written testimony (Exhibit 1) in favor of HB637.

Ms. Jeanne-Marie Souvigney, representing Northern Plains Resource Council, asked to go on record as a proponent of HB637.

Mr. Gary Langley, representing the Montana Mining Association, feels the current law keeps people from being good citizens by providing for a civil penalty. Mr. Langley is in favor of HB637.

Mr. George Ochenski, representing the Environmental Information Center, supports HB637.

Written testimony was also submitted by Mr. Thomas E. Schessler (Exhibit 2) and Mr. Don C. Cowles (Exhibit 3) in favor of HB637.

There being no further proponents, no opponents and no questions from the committee, the hearing on HB637 was closed.

CONSIDERATION OF HB670: Representative Iverson, sponsor of HB670, stated this bill will have an affect on the mining industry. Under the Hard-Rock Mining Act, tailings are not

subject to reclamation. Although this has not been a problem in the past, miners are now beginning to go through these tailings to recover minerals. Representative Iverson believes these tailings should be covered by the Hard-Rock Mining Act.

PROPONENTS: Mr. Dennis Hemmer, representing the Department of State Lands, submitted written testimony (Exhibit 4) in favor of HB670.

Ms. Jeanne-Marie Souvigney, representing Northern Plains Resource Council, stated she would like to go on record as being a proponent of HB670.

Mr. Gary Langley, representing the Montana Mining Association, stated he worked on the preparation of HB670 with Dennis Hemmer and is in favor of the bill.

Mr. George Ochenski, representing the Environmental Information Center, stated he would like to go on record as supporting HB670. Mr. Ochenski believes this bill will provide a better future for Montana.

There being no further proponents and no opponents, the hearing was opened to questions from the committee.

Senator Shaw questioned whether this bill would affect the gold mine presently operating near Boulder, Montana. Mr. Hemmer replied the mine was already covered by the Hard-Rock Mining Act.

Senator Weeding questioned whether the bill would include tailings from rock-crushing operations or highway projects. Mr. Hemmer explained these operations would not be affected since they do not include mineral extraction.

Senator Halligan questioned why the definition of "disturbed lands" does not include tailings. Mr. Hemmer explained that tailings were not included in the definition, because they are considered to be abandoned deposits.

Chairman Eck questioned Mr. Hemmer as to what custom mills are and if they were addressed by HB670. Mr. Hemmer explained custom mills could be portable and process ore which comes partially from one mine and partially from another. Mr. Hemmer further explained these mills were covered by Section 3, page 7.

Mr. Hemmer explained to Senator Mohar the Department of State Lands was expecting more requests for permits to come in as the price of gold rises.

Senator Tveit stated it was interesting to see the relationship that has developed between industry and the Northern Plains Resource Council.

Representative Iverson closed the hearing on HB670 by stating everyone involved had done an excellent job in preparing HB670. Representative Iverson hopes passage of HB670 will clean up spoils which otherwise would have been neglected.

Senator Fuller moved HB670 BE CONCURRED IN. Senator Weeding stated he had a problem with the section of the Montana Codes Annotated referred to on page 16, line 8. Mr. Bob Thompson, staff researcher, stated he would look into the matter, and Senator Fuller withdrew his motion.

CONSIDERATION OF HB695: Representative Asay, sponsor of HB695, stated the bill is attempting to alleviate a conflict between counties and the Department of State Lands by exempting counties from having to file reports on inactive gravel pits. Representative Asay would like to see counties operate gravel pits without being in violation of the current statutes while still falling within the reclamation requirements of the State of Montana. Representative Asay feels the amendments added by the House of Representatives make this impossible, and stated if the committee does not remove these amendments, the bill does not need to go any further.

PROPONENTS: Mr. Gordon Morris, representing the Montana Association of Counties, stated the original intent of HB695 is to relieve counties from being held by the same standards as the private sector. Mr. Morris feels the amendments on page 6, line 14, makes HB695 worthless. Mr. Morris feels counties should be exempt from filing reports, because they are always available if further reclamation is needed. Mr. Morris does not feel counties should have to file a performance bond and feels notification to the Department of State Lands and the Department's ability to perform a site inspection should be sufficient.

Mr. Dennis Hemmer, representing the Department of State Lands, stated the reason the bill was "gutted" in the House of Representatives is because the Department of State Lands opposes dropping the initial application process. Mr. Hemmer stated his Department needs to be informed where the pit will be located, whether the county has obtained the surface owner's consent and if the area can be reasonably reclaimed. Mr. Hemmer stated he would be willing to work with the counties to resolve this problem.

ROLL CALL

Natural Resources COMMITTEE

48th LEGISLATIVE SESSION -- 1985 Date 2-22-85

SENATE SEAT #

NAME	PRESENT	ABSENT	EXCUSED
ECK, Dorothy (Chairman	✓		
HALLIGAN, Mike (Vice Chairman)	✓		
WHEELING, Cecil	✓		
MOHAR, John	✓		
DANIELS, M. K.	✓		
FULLER, David	✓		
CHRISTIAENS, Chris	✓		
TVEIT, Larry	✓		
GAGE, Delwyn	✓		
ANDERSON, John	✓		
SHAW, James	✓		
HARDING, Ethel	✓		

Each day attach to minutes.

EX 4

TESTIMONY ON HOUSE BILL 670

FROM DENNIS HEMMER, COMMISSIONER OF STATE LANDS

The Department of State Lands supports House Bill 670 to amend sections 82-4-303, 82-4-304, 82-4-335, 82-4-336, 82-4-337, 82-4-340, and 82-4-351, MCA, of the Montana Metal Mine Reclamation Act because the amendment provides a solution to several issues that need additional clarification.

The first issue deals with the remining and reprocessing of old tailings and waste rock. At the present time, many mining companies are examining old historic tailings piles and waste rock dumps to determine the mineral values that remain. As a result, these companies have proposed reprocessing of those materials to recover those values. Under the existing provisions of the Metal Mine Reclamation Act, the remining and reprocessing are not included. They should be, however, because the potential impacts to the public and the environment can be the same as that of a new mine development. Often times the old tailings have reached equilibrium. Remining redisturbs the area resulting in a new potential for environmental problems. In addition, if those remined areas are required to be permitted, the opportunity to improve an area where historic environmental problems exist due to mining becomes available. It should be noted that the operator would not be required to reclaim the area to a better condition than existed prior to the effective date of this bill and the promulgation of rules.

The second issue deals with the permitting of custom mills that process ore mined by other various mine operators and mine specific mills that are owned and operated by individual mining operations, but are located away from the permitted mine site. The present interpretation of the Montana Metal Mine Reclamation Act is that these types of mills are not necessarily covered and therefore an operating permit is not required. This interpretation needs to be amended because the potential impact on the public and the environment is the same for these types of mills as they are for mills that are permitted at a mine site. The issues of mill siting, tailings pond siting, design, stability and impact on ground and surface wastes needs to be thoroughly evaluated before construction. It should be noted that this amendment would only apply to those mills that are constructed or expanded upon after promulgation of the rules.

In summary, I urge your support of these amendments to resolve these issues and provide additional protection of the public and the environment by requiring the permitting of off mine site and custom mills and the reprocessing of old tailings.

SENATE NATURAL RESOURCES COMMITTEE

MINUTES OF THE MEETING
SENATE NATURAL RESOURCES COMMITTEE
MONTANA STATE SENATE
March 28, 1985

The twenty-seventh meeting of the Senate Natural Resources Committee was called to order at 6:30 p.m., by Chairman Dorothy Eck, March 28, 1985, Room 405, State Capitol Building.

ROLL CALL: All members of the Senate Natural Resources committee were present.

ACTION ON HB670: Senator Halligna moved HB670 BE CONCURRED IN. The motion carried.

ACTION ON HB695: Chairman Eck informed the committee Representative Asay had indicated he was not satisfied with HB695 as amended by the House of Representatives. Senator Shaw moved HB695 BE TABLED. The motion carried.

FURTHER CONSIDERATION OF HB750: Senator Gage submitted proposed amendments to HB750 (Exhibit 1) for the committee's consideration and moved the proposed amendments BE ADOPTED. Senator Gage explained the amendments will amend Section 2 of HB750 to address concerns that the State of Montana will be duplicating the efforts of the federal government. At present, the federal information is available to the Department of Natural Resources and Conservation (hereafter DNRC). Senator Gage feels the costs of these duplicated efforts will be reflected in the rate base and, ultimately, be passed on to the ratepayer. The State currently has a means of examining witnesses and a means of presenting its own witnesses. In addition, the DNRC can require an Environmental Impact Statement (hereafter EIS). These proposed amendments will reduce the effect of Section 2.

Senator Mohar does not feel comfortable with the proposed amendments because he feels it makes the information available to DNRC but does not provide DNRC with the resources to evaluate the information. Senator Mohar feels with these amendments, Montana would be giving up its State's rights. Section 2 is the way to keep the State involved in determining where hydroelectric facilities are located.

Senator Weeding was involved in the Kootenai Falls project, and although he does not know what costs were incurred by the DNRC, he is sure it was less expensive than what a full study would have been. Senator Weeding feels it is necessary to leave Section 2 in the bill, so the State can intervene.

Senator Fuller expressed concerns about the State duplicating the actions of the federal government. Senator Fuller questioned

MARCH 29 19 95

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE BILL No. 670

THIRD (HALLIGAN) reading copy (BLUE color)

TO REQUIRE RECLAMATION OF TAILING, WASTEROCK, AND ORE PROCESSING

Respectfully report as follows: That HOUSE BILL No. 670

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

SENATOR DOROTHY ECK Chairman.